



August 26, 2019

Shafaq Patel
MuckRock News
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**RE: Right to Know Law Request
DOH-RTKL-MSC-097-2019**

Dear Mr. Patel:

This letter acknowledges receipt by the Pennsylvania Department of Health (Department) of your written request for records under the Pennsylvania Right-to-Know Law (RTKL), 65 P.S. §§ 67.101-67.3104. I received your request on July 18, 2019. You requested:

The following records: Materials related to requests for information regarding abortion services. Please include as responsive:

1. Any public records requests, as well as any provided responses or responsive materials, submitted by groups with a publicly known focus on anti-abortion and pro-life sentiments. Please include but do not limit responsive materials to those referencing the following organizations:

- Pro-Life Action League
- National Right to Life
- Check My Clinic
- The Center for Medical Progress
- Coalition for Life
- Operation Rescue
- Right to Life.

If there is a group, like a local city group, that has this sentiment but was not listed, please also provide their requests as well.

2. All communications, from Jan. 1, 2015 to present day, between your agency and representatives of the following organizations:

- Pro-Life Action League
- National Right to Life
- Check My Clinic
- The Center for Medical Progress
- Coalition for Life
- Operation Rescue
- Right to Life.

3. Any and all requests and documents with following words:

ABORTION
PREGNANCY TERMINATION
TERMINATION OF PREGNANCY
UNBORN BABIES
INDUCED ABORTION
FETAL TISSUE
PARTIAL BIRTH ABORTION
TELEMEDICINE

Your request is granted in part and denied in part as detailed below.

Your request in paragraph 1 is granted in part and denied in part. Your request for “[a]ny public records requests, as well as any provided responses or responsive materials, submitted by groups with a publicly known focus on anti-abortion and pro-life sentiments” is insufficiently specific because does not identify a timeframe which with to search in and requires the Department to make a determination about whether a prior requester has a “public known focus on anti-abortion.”

Your request in paragraph 1 is granted in part where you specified an organization’s RTKL request. The Department interpreted your request as seeking RTKL requests from the entities listed in paragraph 1 from the date you filed the request to 2009, when the new RTKL went into effect.

Please find enclosed the RTKL requests from the Pro-Life Action League. Both the requests and the responsive documents are enclosed. Redactions were made to the responsive documents when they were provided to the requester. Specifically, personal email and postal addresses were redacted pursuant to Section 708(b)(6)(i)(A) of the RTKL. 65 P.S. § 67.708(b)(6)(i)(A). The Department additionally redacted or withheld names and medical license numbers of medical providers and others affiliated with the abortion facilities pursuant to the personal safety and security exemption found in Section 708(b)(1)(ii) of the RTKL. 65 P.S. § 67.708(b)(1)(ii).

Please note that no responsive records exist for the other organizations you mentioned. Please note that many RTKL requests concerning abortion facilities and data come from individuals who do not otherwise identify with the entities you listed in your request.

Your request in paragraph 2 is granted in part and denied in part. All responsive records are enclosed. Personal email addresses and phone numbers have been redacted pursuant Section 708(b)(6)(i)(A) of the RTKL. 65 P.S. § 67.708(b)(6)(i)(A). Additionally, non-responsive material has been redacted.

Your request in paragraph 3, which seeks “any and all requests,” is denied as insufficiently specific. Pursuant to 65 P.S. § 67.703, a request should identify or describe the records sought with sufficient specificity to enable the agency to identify the records requested. A request for “any and all ... communications” has been found to be insufficiently specific. See *Pa. State Police v. Office of Open Records*, (Pa. Cmwlth. Ct. 2010).

In particular, the Commonwealth Court has held that simply providing “search terms” may be insufficient to permit the agency to determine the business, transaction or activity that may be responsive to the request. See *Montgomery County v. Iverson*, 50 A.3d 281 (Pa. Cmwlth. Ct. 2012). Rather, the RTKL provides a means for requester to access records that detail agencies’ identified businesses, transactions or activities. Your request does not identify any business, transaction or activities, and instead seeks to compel the agency to conduct research per your specifications, in order to compile information in a manner responsive to your request. Such a result cannot be compelled under the RTKL. 65 P.S. § 67.705. See *OOR Opinions: The Fairness Center v. Office of the Governor* (AP 2019-0055) & *Jacqueline Palochko and The Morning Call v. Executive Education Academy Charter School* (AP 2018-1397).

Please note that for a request to be sufficiently specific it must clearly identify the transaction or activity of the agency and it must clearly identify members of the agency. Your request in paragraph 3 does not contain a timeframe to search nor does it provide the Department sufficient specificity to identify the records being requested.

You have a right to appeal this partial denial of information in writing to the Executive Director, Office of Open Records (OOR), 333 Market Street, 16th Floor, Harrisburg, Pennsylvania 17101. If you choose to file an appeal you must do so within 15 business days of the mailing date of this response and send to the OOR:

- 1) this response;
- 2) your request;
- 3) the reasons why you think the agency is wrong in denying access under the RTKL to the requested records.

Also, the OOR has an appeal form available on the OOR website at: <https://www.dced.state.pa.us/public/oor/appealformgeneral.pdf>.

Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Sincerely,

A handwritten signature in black ink that reads "Lisa M. Keefer". The signature is written in a cursive, flowing style.

Lisa M. Keefer
Agency Open Records Officer
Pennsylvania Department of Health
625 Forster Street
825 Health and Welfare Building
Harrisburg, PA 17120-0701

Date of Mailing: 08/26/2019

Enclosures